

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RACHEL RAJPUT, :  
Plaintiff : CIVIL ACTIONS  
v. : NO. 3:15-cv-01079-WJN  
: NO. 3:15-cv-01595-WJN  
: (JUDGE WILLIAM J. NEALON)  
SYNCHRONY BANK f/k/a GE :  
CAPITAL RETAIL BANK, :  
Defendant :  
:

**PLAINTIFF'S RESPONSE IN OPPOSITION  
TO DEFENDANT'S MOTION TO STAY**

Plaintiff, Rachel Rajput, through her undersigned counsel hereby responds to and opposes Defendant's Motion to Stay.

1. On June 1, 2015, Plaintiff filed a Complaint against Defendant in this Court docketed at No. 3:15-cv-01079.

2. On August 14, 2015, Plaintiff filed a separate Complaint against  
Defendant in this Court docketed at No. 3:15-cv-01595

3. Both suits allege violations by Defendant of the Telephone Consumer Protection Act (“TCPA”)

4. On January 29, 2016, Defendant moved this Court to stay both cases on the basis of two then pending cases: *Spokeo, Inc. v. Robins*, 135 S. Ct. 1892

1 (2015) and ACA International v. Federal Communications Commission, Case No.  
2 15-1211 (D.C. Cir. Filed July 10, 2015).  
3

4 5. On March 10, 2016, this Honorable Court granted Defendant's  
Motion on the basis of the Spokeo case, but denied Defendant's Motion with  
respect to the ACA International case as moot with leave to re-file.  
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7 6. At present, Spokeo has been decided, but the ACA International case  
is still pending with the DC Circuit.  
8

9 10. Defendant has now renewed its Motion to Stay with respect to ACA  
11 International.  
12

13 8. The Supreme Court's decision in Spokeo has had little to no effect on  
14 the landscape of discovery in this litigation and it is hard to see how the ACA  
15 International case will be any different.  
16

17 9. This matter has already sat stagnant for four months waiting for one  
18 decision which has had no meaningful effect on the way this litigation should  
19 proceed.  
20

21 10. Now, Defendant asks this Court to again stay this case to await the  
22 resolution of a case from a circuit court that is not even binding on this Court.  
23

24 11. Regardless of the DC Circuit's decision, such holding will be only  
25 persuasive authority and this Court is free to consider any argument made to the  
DC Circuit on its own.  
26

1 12. There is nothing to be gained by staying this matter to await the  
2 decision of a sister circuit.  
3

4 13. Plaintiff will be prejudiced by further delay in her cases in awaiting a  
5 decision that will have no binding effect on this Court.  
6

7 14. By the time that the ACA International decision is rendered, it is  
8 likely that another high-profile TCPA case may be pending before another circuit  
9 court. While a United States Supreme Court decision or a decision by the circuit  
10 court of the circuit where the action is pending could potentially justify a stay,  
11 awaiting decision in any high profile case that *may* produce relevant persuasive  
12 authority would bring the common law system to a grinding halt.  
13

14 15. For the foregoing reasons, Plaintiff hereby requests that this Court  
15 DENY Defendant's Motion to Stay in its entirety.  
16  
17

18 Respectfully submitted,  
19

20 Dated: July 26, 2016

21 By: /s/ Craig Thor Kimmel  
22 Craig Thor Kimmel, Esquire  
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**CERTIFICATE OF SERVICE**

I hereby certify that I have served upon all persons listed below a true and correct copy of PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION TO STAY in the above-captioned matter this 26<sup>th</sup> day of July 2016 via ECF:

Valerie E. Brown  
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Respectfully submitted,

Dated: July 26, 2016

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